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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,496	12/11/2000	Brian Feinberg	60136.0128USU2	3605
94140	7590	04/05/2011		
Merchant & Gould - Cox PO Box 2903 Minneapolis, MN 55402			EXAMINER	
			PARRA, OMAR S	
			ART UNIT	PAPER NUMBER
			2421	
MAIL DATE	DELIVERY MODE			
04/05/2011	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief		Application No. 09/734,496	Applicant(s) FEINBERG ET AL.	
		Examiner OMAR PARRA	Art Unit 2421	
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --				
THE REPLY FILED <u>17 March 2011</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.				
<p>1. <input type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</p> <p>a) <input checked="" type="checkbox"/> The period for reply expires <u>3</u> months from the mailing date of the final rejection.</p> <p>b) <input type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p> <p>Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p>				
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>				
<p>NOTICE OF APPEAL</p> <p>2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</p>				
<p>AMENDMENTS</p> <p>3. <input checked="" type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because</p> <p>(a) <input type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);</p> <p>(b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below);</p> <p>(c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input checked="" type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.</p> <p>NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).</p> <p>4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</p> <p>5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____. </p> <p>6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>7. <input checked="" type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input checked="" type="checkbox"/> will not be entered, or b) <input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p> <p>The status of the claim(s) is (or will be) as follows:</p> <p>Claim(s) allowed: _____. Claim(s) objected to: _____. Claim(s) rejected: <u>22-35</u>. Claim(s) withdrawn from consideration: _____. </p>				
<p>AFFIDAVIT OR OTHER EVIDENCE</p> <p>8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</p> <p>9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</p> <p>10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</p>				
<p>REQUEST FOR RECONSIDERATION/OTHER</p> <p>11. <input checked="" type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet</u>.</p> <p>12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____</p> <p>13. <input type="checkbox"/> Other: _____. </p>				
<p>/William Trost/ Supervisory Patent Examiner, Art Unit 2421</p>				

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues: "Jahn would not know the capabilities of the device, but rather would only know what type of messaging the device handle. Thus, Jahn would not know whether a device could use a web interface through a browser to change system parameters to rectify the error", page 9. To this matter, the examiner respectfully disagrees.

Jahn teaches that the monitoring devices analyze and decide if a fault should be reported. A report and a recommended solution is generated and sent to multiple devices of personnel that could repair the fault (col. 4 line 51-col. 5 line 23; col. 6 lines 4-23 and lines 47-64). The report can be sent directly from the report generation entity or from a centralized console (col. 6 lines 54-64). The system uses a predetermined distribution list containing the different devices which could be pagers, email capable, control consoles, etc. From the list, the system is able to recognize which type of device it is, and format the message based on the designated type of the communication device for which it is intended (col. 4 line 51-col. 5 line 23; col. 6 lines 4-23 and lines 47-64). It is evident that if a device is capable to receive an email and that some other one is a pager, then their capabilities are known.

Applicant seems to be equating 'capabilities of the devices' to be "whether or not the device could use a web interface through a browser to change system parameters"; however, this is not part of the claimed language. Therefore, the examiner respectfully believes that the art of record covers the argued limitation.

" The Office Action states that the specification only discloses manually inputting information. Applicant respectfully traverses this characterization of the specification. Rather, the specification only discloses that the interface menu is manually activated. The specification does not indicate that the information has to be entered manually. Moreover, Table 1 shows information that may be collected. Thus, other information may be collected consistent with the specification and claims", pages 9 and 10. To this matter, the examiner respectfully disagrees.

The system uses a predetermined (emphasis added) distribution list containing the different devices which could be pagers, email capable, control consoles, etc. From the list, the system is able to recognize which type of device it is, and format the message based on the designated type of the communication device for which it is intended (col. 4 line 51-col. 5 line 23; col. 6 lines 4-23 and lines 47-64). As discussed in the previous Office Action mailed on 01/04/2011, the 'collecting' term, as disclosed in applicant's specification, refers only to the manually input of information by an operator through a computer interface (Specification, page 28 lines 3-7: "Table 1 lists information that may be collected to reach remote device designated to receive status and messages from monitor and control unit 660. This information may be entered via an interface menu -emphasis added-, which may be activated, for example by clicking on button 740a in control monitor 700"). In this way, Jahn clearly teaches that the list of the remote devices was previously inputted in the system at some point, and therefore, teaching the argued limitation of collecting the claimed information.